

119/116	31/28
120/10	33/32
121/10	34/32
122/10	35/32
123/103	37/36
124/103	38/36
(125 is canceled)	
126	39
127	40
128	41
130	42
131	43
132	44
(133 is canceled)	
134	45
135	46
136	47

REMARKS

Claims 1-17, 103, 104 and 106-124, 126-128, 130-132 and 134-136 are in the application. Entrance of this Amendment after final under Rule 116, reconsideration and reexamination are respectfully requested.

1. Rejections Under 35 U.S.C. §112, First Paragraph

Claims 116-119 were rejected under 35 U.S.C. §112, second paragraph, particularly for the use of the words 'substantially planar sample'.

The specification at page 18, lines 8, et seq. States: 'In one embodiment, the sensor is moved pass the substrate in a

raster-scan motion to generate a two-dimensional data output, e.g., an image, having an 'x' dimension and a 'y' dimension.' It is the sample on the substrate that is substantially planar. However, claim 116 is amended to delete the objected-to language.

2. Rejections Under 35 U.S.C. §112, Second Paragraph

Claims 116-119, 125 and 129 were rejected under 35 U.S.C. §112, second paragraph,

Objected-to language is deleted from claim 116.

Claim 125 is canceled..

Claim 129 is canceled.

3. Rejections Under 35 U.S.C. §102 and §103

Claims 1-17, 103, 104, 106-115 and 120-124 are allowed.

Claims 125, 129 and 133 are rejected under 35 U.S.C. §102 over the reference art of Fox, et al.

Claims 135 and 139 are rejected under 35 U.S.C. §102 over the reference art of Babino, et al.

Claims 126-128, 130-132 and 134-136 are indicated allowable if rewritten in independent form.

Without (1) acceding to the relevance of either the Fox, et al. or the Bambino, et al, references and the rejection of Applicant's claims in respect of these references, nor (2) Applicant's ability to swear behind either, or both, of these references, because (a) the present continuation application has been in prosecution over five (5) years and since 08/18/00; (b) Applicant desires issuance of a (first) patent, and (c) further divisional applications will be ensuing in which further applications mor detailed attention, and argument, can be paid to the references of Fox, et al. and to Bambino, et al., Applicant accepts the suggestion of the Examiner, and re-drafts his claims 126-128, 130-132 and 134-136 in independent form.

These claims are thus deemed allowable.

3. Summary

The present amendment and remarks have overcome and discussed each of the bases for the rejections presented in the Final Office Action. No new subject matter has been introduced by the present amendment.

In consideration of the preceding amendment and accompanying remarks, the present amendment is deemed worthy of entrance, and the present application is deemed in condition for allowance. The timely action of the Examiner to that end is earnestly solicited.

Applicant's undersigned attorney is at the Examiner's disposal should the Examiner wish to discuss any matter which might expedite prosecution of this case.

Sincerely yours,

William C. Fuess

William C. Fuess
Registration Number 30,054

William C. Fuess
FUESS & DAVIDENAS
Attorneys at Law
10951 Sorrento Valley Road
Suite II-G
San Diego, California 92121-1613
Telephone: (858) 453-3574 after 2:00 P.M. P.S.T.
Facsimile: (858) 453-3574
E-mail: FandD@ricochet.com

[X] Attorney of Record
[] Filed Under 37 CFR §1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Box After Final, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date written below.

November 23, 2005 William C. Fuess

William C. Fuess

Date	Typed Name of Person	Signature of Person
Of Mailing	Mailing Correspondence	Mailing Correspondence